

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Waste Tire Fee Exemption for Salvage Yards
(LAC 33:VII.10505, 10519, 10521, and 10533) (SW042)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10505, 10519, 10521, and 10533 (Log #SW042).

This rule establishes an exemption from the waste tire fee levied pursuant to R.S. 30:2413(A)(8) for tires salvaged from Louisiana-titled vehicles and sold by scrap or salvage yards. Act 821 of the 2006 Regular Session of the Louisiana Legislature provides for this exemption for the period of July 1, 2006 through June 30, 2008. These regulations provide guidance on which facilities qualify as a scrap or salvage yard and the recordkeeping requirements in order to qualify for the exemption. The basis and rationale for the proposed rule are to implement Act 821 and to promote best management practices for the waste tire program in the state.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on November 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW042. Such comments must be received no later than December 5, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW042. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. ...

* * *

Qualified Scrap or Salvage Yard—any facility that is required to be licensed pursuant to R.S. 32:752.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:**.

§10519. Standards and Responsibilities of Generators of Waste Tires

A. – B. ...

C. Each tire dealer, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division), to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no

fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. ~~These records shall be made available for inspection by the administrative authority at all reasonable hours.~~ These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

E. – E.1. ...

2. "All Louisiana tire dealers, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

3. "Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale."

F. – N. ...

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. ~~These records shall be kept for a period of three years and shall be available and subject to inspection by the administrative authority at all reasonable hours.~~ These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, qualified scrap or salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. Qualified scrap or salvage yard tire dealers shall make available to the administrative authority the register of business transactions as required by R.S. 32:757(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. ~~These records shall be open for inspection and/or audit by the administrative authority at all reasonable hours.~~ These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended

LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:**.

§10521. Standards and Responsibilities of Motor Vehicle Dealers

A. – B. ...

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division) to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours~~by the administrative authority at all reasonable hours.~~

D. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

§10533. Manifest System

A. – C. ...

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**LOG #: SW042

Person

Preparing

Statement: Keri MeyersDept.: Environmental QualityPhone: 225-219-3865Office: Office of the Secretary,
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Return

Address: P.O. Box 4303
Baton Rouge, LA 70821-4303

Rule

Title: Waste Tire Fee Exemption for
Salvage Yards (LAC 33:VII.10505,
10519, 10521, and 10533)

Date Rule

Takes Effect: Upon Promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost to the department of implementing the rule as it pertains to an exemption for scrap and salvage yards is estimated to be a minimal increase in expenditure of funds that are dedicated to the Waste Tire Management Fund. The department will incur a minimal additional cost of printing and mailing notifications and signs to approximately 3,000 Louisiana registered waste tire dealers. There will be no implementation costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rule as it pertains to an exemption for scrap and salvage yards is estimated to result in a decrease of approximately \$2,767 to \$40,000 annually in fee collections dedicated to the Waste Tire Management Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The rule will result in scrap and/or salvage yards recovering tires from Louisiana-titled vehicles to avoid having to collect the waste tire fee. This will result in the consumers who buy these recovered tires not having to pay the fee. There will be no direct impact on scrap and/or salvage yards selling these tires.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulation change will have a minimal impact on used tire dealers other than scrap or salvage yards, as scrap and/or salvage yards will be able to sell tires without the consumer having to pay the waste tire management fee.

Signature of Agency Head or Designee

Legislative Fiscal Officer or DesigneeHerman Robinson, CPM, Executive Counsel

Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The rule provides an exemption from waste tire fees for tires salvaged from Louisiana-titled vehicles and sold by scrap or salvage yards.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 821 of the 2006 Regular Session of the Louisiana Legislature amended La. R. S. 30:2418(H)(10) to provide an exemption from the waste tire fees for tires salvaged from a Louisiana-titled vehicle and sold by a scrap or salvage yard for the period of July 1, 2006, through June 30, 2008. These regulations will provide guidance on which facilities qualify as a scrap or salvage yard and the recordkeeping requirements in order to qualify for the exemption.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

There will be no increase in the expenditure of funds for the rule.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ____ Yes. If yes, attach documentation.

(b) ____ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 06-07	FY 07-08	FY08-09
PERSONAL SERVICES			
OPERATING EXPENSES	minimal	minimal	
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	minimal	minimal	-0-
MAJOR REPAIR & CONSTR.	-0-	-0-	-0-
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The cost of implementing the rule as it pertains to an exemption for scrap and salvage yards is estimated to be a minimal increase in the expenditure of funds in the Waste Tire Management Fund. The department will incur a minimal additional cost of printing and mailing notifications and signs to approximately 3,000 Louisiana registered waste tire dealers.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Waste Tire Management Fund)	minimal	minimal	
TOTAL	minimal	minimal	

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The department has sufficient funds in the Waste Tire Management Fund to implement the proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no cost or savings to local governmental units as a result of the implementation of the rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
RESTRICTED FUNDS* _____	(\$2,767-40K)	(\$2,767-40K)	Fee Sunsets
FEDERAL FUNDS _____			
LOCAL FUNDS _____			
TOTAL _____	(\$2,767-40K)	(\$2,767-40K)	Fee Sunsets

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The rule as it pertains to an exemption for a scrap and salvage yard is estimated to result in a minimum decrease in fee collections dedicated to the Waste Tire Management Fund of approximately \$2,767 annually. The maximum would be some amount less than the total estimated collections on all used tires of \$398,000. DEQ cannot determine what percentage of these total collections can be attributed to these entities; however, if as much as 10% of these total estimated collections were attributed to these exempt tires, the revenue loss could be as much as approximately \$40,000 annually through FY 08.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Consumers of used tires from scrap or salvage yards will save the amount of the fee when they purchase tires salvaged from Louisiana-titled vehicles.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Consumers' estimated savings are \$2.00 upon the purchase of each used passenger/light truck tire, \$5.00 for a used medium truck tire, and \$10.00 for a used off-road tire.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The regulation change will have a minimal impact on used tire dealers other than scrap or salvage yards, as scrap and/or salvage yards will be able to sell tires without the consumer having to pay the waste tire management fee. Impact on employment, both public and private, is expected to be minimal, if any.